

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT : Kimle, et al.  
SERIAL NO. : 09/335,648  
FILED : June 18, 1999  
TITLE : METHOD OF ELECTRONICALLY INITIATING AND  
MANAGING AGRICULTURAL PRODUCTION CONTRACTS  
Grp./A.U. : 2164  
Examiner : Kyle, C.  
Conf. No. : 6709  
Docket No. : P03566US0

**SECOND SUPPLEMENTAL DECLARATION OF PRIOR INVENTION IN THE  
UNITED STATES OR IN A NAFTA OR WTO MEMBER COUNTRY TO  
OVERCOME CITED PATENT OR PUBLICATION  
(37 C.F.R. 1.131)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

**A. PURPOSE OF DECLARATION**

1. This declaration is to supplement the declaration filed August 27, 2001 and of record in this application.

**B. FACTS**

2. I am a co-inventor of the above-identified U.S. Patent Application.
3. I have read the entire contents of the attached August 27, 2001 Declaration of my co-inventors Kevin Kimle, David Krog and Reynold Harder (a copy of which is attached to this declaration). The statements made therein are accurate.

**C. TIME OF PRESENTATION OF THE DECLARATION**

4. This declaration is submitted after final rejection.

**D. DECLARATION**

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**E. SIGNATURE****6. Inventor**Full name of Inventor Alan G. SchmitzInventor's Signature Alan G. SchmitzDate 2/7/02 Country of Citizenship USA

Residence \_\_\_\_\_

Post Office Address 1009 NE 5th StAnkeny IA 50021

Attachment to Declaration: 8-27-2001 Declaration of Kimle, Krog, Harder, and Cavey

Received Time Feb. 6. 5:14PM

Received Time Feb. 7. 2:53PM

02 Feb. 7. 2002 1 2:35PM x 5 MARKETS

MCKEE VOORHEES &amp; S

No. 9747 P. 23/24 020

Full name of second inventor David KrogInventor's Signature *David Krog*Date 2/7/02 Country of Citizenship USA

Residence \_\_\_\_\_

Post Office Address 546 Waterbury CircleDes Moines, IA 50312Full name of third inventor Reynold HarderInventor's Signature *Reynold Harder*Date 2/7/02 Country of Citizenship USA

Residence \_\_\_\_\_

Post Office Address 502 Ely CircleAmes IA 50010Full name of fourth inventor Alan G. SchmitzInventor's Signature *Alan G. Schmitz*Date 2/7/02 Country of Citizenship USA

Residence \_\_\_\_\_

Post Office Address 1009 NE 5th StAnkeny IA 50021

Assignee

Printed Name of Person Signing Scott Cavey

Received Time Feb. 8. 5:14PM

5

Received Time Feb. 7. 2:53PM

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PUBLICATION  
(37 CFR 1.131)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

**A. PURPOSE OF DECLARATION**

1. This declaration is to establish completion of the invention in this application in the United States, at a date prior to September 4, 1996, that is the effective date of the prior art patent, Walker U.S. Patent 5,794,207, that has been cited by the Examiner in the Office Action of April 27, 2001.
2. The persons making this Declaration are several inventors, who are also officers of E-Markets, Inc., the party in interest, and the President and Chief Operating Officer of E-Markets, Inc.
3. The remaining inventors are no longer with E-Markets, Inc. and their whereabouts are presently unknown.

## **B. FACTS AND DOCUMENTARY EVIDENCE**

4. To establish the date of completion of the invention of this application, the following attached documents are submitted as evidence:
  - Exhibit A: Reproductions of handwritten notebook entries of one of the inventors (5 pages).
  - Exhibit B: Reproductions of subsequent notebook entries of one of the inventors (5 pages).
  - Exhibit C: Reproductions of pages of a draft business plan for the assignee of all interest in the present application (8 pages).
5. From these documents, all of which were created and in existence prior to September 4, 1996, it can be seen that the invention in this application was made at least by the date of September 4, 1996, which is a date earlier than the effective date of the reference. Dates on the documents have been redacted.
6. Specifically, the documents of Exhibits A-C show the following concepts from the claims of the application:
  - (a) implementation on the world wide web with a web server.  
(See, e.g., Exh. A, page 1 -- "Platforms: 1) separate software... 2) WWW..."; and Exh. C, page 2 -- mock up internet browser page).
  - (b) Use of a central database to store relevant information about buyers and producers  
(See, e.g., Exh. A, page 4 -- "...database (and date entry).." and Exh. A, top of page 5, where different information types are mentioned "time", "price", "where", "quality", "quantity"....).

- (c) The type of data to be stored (e.g. type/ amount/ acres/ bushels of agricultural commodity) desired or committed to be produced  
(See Exh. A, pages 4-5).
- (d) Input options from prospective buyer(s)  
(See Exh. A, page 1 -- "White Corn Bid...Where...When...highest bid...expiration"; Exh. A, page 5 -- "time", "price", "where", "quality", "quantity", "members at a couple levels...", "...members...Enter Acct. #....password...", "...bid prices...", "...post a hit price...."; Exh. B, page 5 -- "E-Contract...Contract pricing...").
- (e) Input options from prospective producer of the product  
(See Exh. A, page 1 -- "White Corn market...Deliverable...Where...Bid Ask..."; Exh. A, page 5 -- "time", "price", "where", "quality", "quantity", "members at a couple levels...", "...members...Enter Acct. #....password...", "...bid prices...", "...post a hit price...", "delivery points"; Exh. B, page 2 -- "Members...info you need..."; Exh. B, page 3 -- "Delivery Schedule).
- (f) Generation of a contract memorializing an agreed transaction  
(See Exh. A, page 3 -- "Take contracting situation and form info. system to link to electronic transactions features"; Exh. B, page 4 -- "Contract execution..."; Exh. B, page 5 -- "E-contract..."; Exh. C, page 1 -- "Electronic input purchases and coordination...Electronic grain marketing and coordination"; Exh. C, pages 6-8).

### **C. DILIGENCE**

7. From the time of conception, to a time just prior to the date of the reference, applicants diligently moved towards a prototype and filing of applicants' application identified in the caption of this declaration.
8. Exhibits B and C occurred at a time subsequent to the documents of Exhibit A, up to July 1996, just prior to the effective date of the reference.
9. Exhibit C are pages from a business plan that occurred prior to the formation of the business E-Markets, Inc., the assignee of all interest in the present application, in October 1996.
10. In the summer of 1996 through the end of the year, work occurred on the formation of the company, planning, obtaining capital, hiring personnel, and the beginning of work towards a prototype of the invention.
11. In November 1996, a rough prototypical beginning to an actual embodiment of the invention was begun. See Exhibit D: Reproductions of early screen shots of an experimental developmental prototype of the assignee of all interest in the present application (4 pages).
12. Exhibit D shows the prototype of (a) an internet based corn contracting system (Exhibit D, page 1), (b) a screen showing steps including entry of data into a data base, including identification of a producer ("grower"), the type and amount of corn (page 2), (c ) a listing of amounts to which the grower is committed(page 1), (d) received data from the grower on goals and allocations of production (page 1), and (e) the generation of a contract between grower and buyer regarding committed amounts and willing-to-buy amounts (page 4).

13. During the first part of 1997, work continued on a prototype, including hiring of personnel to write computer code and development of computer code.
14. A first prototype was reduced to practice in July 1997.
15. The present application relies on a provisional application filing date of June 22, 1998.
16. From July 1997 to June 1998, further development of the business of E-Markets, Inc. occurred.

**D. TIME OF PRESENTATION OF THE DECLARATION**

17. This declaration is submitted prior to final rejection.

**E. DECLARATION**

18. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**F. SIGNATURE(S)**

19.

**Inventor(s)**

Full name of first inventor Kevin Kimle

Inventor's Signature Kevin Kimle

Date 8-27-00 Country of Citizenship USA



Residence 3222 Lettie St. Ames, IA 50014

Post Office Address \_\_\_\_\_

Full name of second inventor David Krog

Inventor's Signature 

Date 8-27-01 Country of Citizenship USA

Residence 546 Waterbury Circle Des Moines, IA 50312

Post Office Address \_\_\_\_\_

Full name of third inventor Reynold Harder

Inventor's Signature 

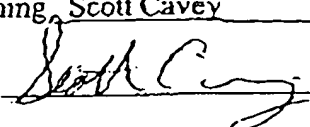
Date 8/27/01 Country of Citizenship USA

Residence 502 Ely Circle

Post Office Address Ames IA 50010

#### Assignee

Printed Name of Person Signing Scott Cavey

Signature of Person Signing 

Title of Person Signing President and COO

Date 8/27/01

Name of Assignee E-Markets Inc.

Post Office Address 1606 Golden Aspen Dr.

Suite 108 Ames IA 50014

Attachments to Declaration: Exhibits A-D

# EXHIBIT A

Flu. Cat. ultra
by 1000
Real-time
Control

Brain
white
yellow
high oct

White Corn selected
Deliverable when Bid let
Apr 96
News

White Corn Bid
Where
When
highest bid
specifications

\* Can we have a simple tool at first elevators: few bid-owners / (and bidders) might use?

- Platforms:

- 1) Supply Software (hardware)
- 2) WWW
- 3) Four Dayta

\* On the animal side can we work w/ IoT & electronically link them w/ Customers?

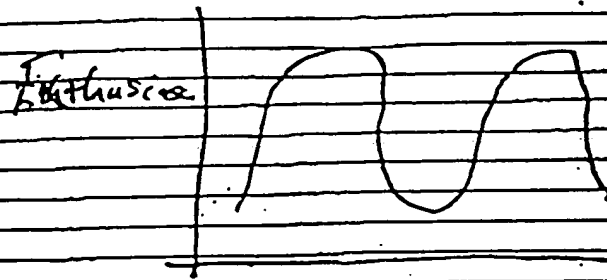
- Supply Chain Link
- Their Customers use computers or Four Dayta to book up.

\* Dual Strategy

- An electronic market on the grain side
- An electronic pig system on the animal side

? - or do we book up w/ back Bus. & pioneer to electronically book their product?

██████████ Dave: Gary  
→ WFF3 tapes



→ July 1 evaluation w/ Gary  
→ Dinner?

→ Need one London per 10 users as a rule

### Product 2 class

→ Business-to-Business Transactions  
→ Don't keep 1 side and want more on both sides and some groups

→ International Tender  
→ have effective way of communicating  
Tender allow in respect markets  
→ only a few exporters

→ Contract grows into system  
→ Fife, Sealey

→ Specialist Tender  
→ Tender are more for small volume,  
specific quality stuff

### Product Aves:

- offer
- 1) Tender communication and processing  
- specific offer - non-specific customer
- 2) Business-to-Business transactions  
- specific 2 customer set-ups

Product highlights from weekend

→ Take Contracting situation and form info. system & lead to electronic transactions future

→ Four markets:

- 1) High Oil Cane
- 2) white Cane
- 3) white Cane
- 4) yellow high quality (Kod)

Low Cushing tidbits

\* Check out "CommerceNet"

- Iowa Institute of Cooperatives is doing some market stuff for member coops; specialty grocers
- Agr. Business Association of Iowa also doing some activities  
→ willing to fund?

- "Revamp" - Dept. of Ag program -- \$24,000 for bus. plan dev.

Pat Paustian Dept. of Ag  
281-6936

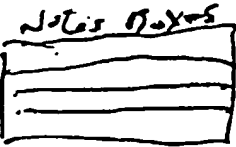
\* Sending info. on REVAMP program

## Contacts Database

Early ideas:



tabs pages



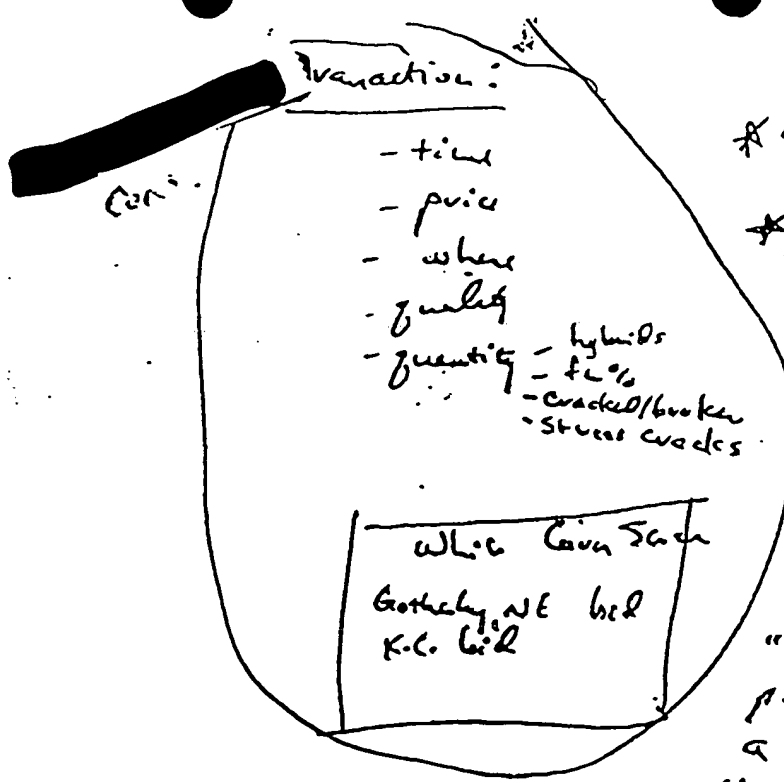
- Copying is key relational link
- Each sector is separate database
- separate databases for survey stuff, financials, etc...

→ How to not quickly link today's 21 database  
al tomorrow's Contact database??

- \* → make a separate linked database  
for 1) C. i.d. (key relational link)  
2) <sup>key</sup> Contacts, mgs, etc...  
3) Survey info

\* Start del. w/ forgetting the "21"  
portion of database (and date entry)

→ linking each sector into  
separate relational links  
w/ slightly differing  
schemas



### Major Delivery Points:

Forts → Holstein, Tx, Srding IL, Goth. NE

Burlington → Kansas City + a few elevators (NE)

Quaker → Cedar Rapids, KC + <sup>some</sup> Cargill elevators (SE SA)

Winn → Red Oak

Several in Texas - Arroyo Valley - 1000

Walesburg, Tx - Texas State Arroyo

WA  
IL  
IN  
IA  
MO  
CA  
TX  
NE

Little guys

\* 30-40 total  
locations



# **EXHIBIT B**

Date

tu to Example

Fries

Furner

Seed

## Cut Costs

- ↳ less man-hours
- ↳ less time sorting seed related data
- ↳ less time getting updates on crop conditions
- ↳ less paperwork
- ↳ less mail, phone costs
- ↳ less contracting through time

Better Open Market Purchases  
Better Communication  
Less precise information  
Contract Aspects:

- write it
- sell it
  - travel
  - phone
  - mail

- settle disputes
- logistics
- delivery

- pricing
- Coordinate w/ growers, etc...

## High Oleic Sunflower

100,000 acres

guy in Dakota \$30/acre  
from 1.5 people (120K) = \$120/acre  
grower capex (200 grower) = 7 mil  
sales w/ cost \$1.50/acre  
4 phone @ \$1 = \$4/acre

Contract to  
\$5,000 for  
1 mil seed

Opening page

"members" at a  
couple levels --  
→ super users like FIVE  
→ associated members --  
no transactions...  
but can view sales  
information

...members  
↓

Enter Acct. &  
password

are How to Establish Acct.

## MARKETS

THE Electronic Operating System  
for Ag & the Food Industry

... Members

- ... FIVE - into you need
- ... Tools - to build a better  
understanding of your  
business, markets,  
& industry
- ... Electronic marketplace -  
buy and sell in the comfort  
of tomorrow... today!

- who we are &
- what we do &
- ~~how we do it~~  
- Contact Us

Opening Pg. for FIVE  
ENTRANCE - FIVE

FIVE with  
Tools -  
OR -  
Electronic marketplace

- Contact Entrance

"Customize"  
button  
x daily updates  
x delivery schedule

Contract pricing

- issue a bid → → a basis bid (morning)
- check prices later in the day
  - how much is priced and who

Cont

Delivery Schedule

- Check schedule for 1st week of January
- there are gaps so

Go to F-wallet's Transactions

*[Handwritten signature]*

- Head lines
- features
- shortest lines
- stroke order
- weather

File. akt.

- lukt. update
- + vacation
- ~~lukt. update~~
- lukt. history

## Tools

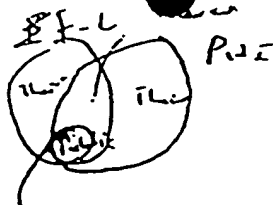
- Supply / demand estimate
- GIS maps
- Trials / hybrid info.
- Industry profiles
- Specialty Grains / Oilseeds mkt. Overview
- Valuation

## Connect

- Supplier Mgt System
  - transactions
  - Contract execution
  - Contract status
  - pricing
  - delivery system
  - crop conditions
  - forum
  - Email
- seed
  - Companies
  - Communication
  - hybrids details
  - trials
  - traits
- Brokers / Intermediaries

© 1994 Franklin Quest Co. Printed in USA *Combs* *transmission* *act.* *last day* *activity*

Network  
View



modules

Rel on S. Pl.  
and previous

F-Tools	F-Contract	F-CONNECT	F-INFO	F-INTEREST
-sig est. maps Crop database	Contract exec. Contract status Contract pricing Delivery system Forum Crop Conditions Communications	Supplier: → trained → Act. Index → delivery System → Forum Comm.	Food & Co Hedging Futures Options Weather ISOP stuff	Wkt. up/down +/- Wkt. Liquidity
		Seed: Companies Crop/Seed database Forum Comm.		

- October (sp?) in Cedar Rapids has walking the fields product from about to rpt. Crop Conditions
- Wants to work it through first
  - himself on prototype
  - Paper on Co. by Monday
  - Then 3 beans (plant managers)
  - Then are "group" in late May
  - Sept. in Dallas
- Crop exec. part of system??
- Now very interested in R. Elec. mkt. sys. but questions how to get everyone on.

# EXHIBIT C

# Competitive and complementary delivery systems

Information	Communication	Transactions
<ul style="list-style-type: none"> <li>◆ Includes price quotations</li> <li>◆ Cash price quotes</li> <li>◆ Weather forecasts</li> <li>◆ Weather maps</li> <li>◆ USDA reports</li> <li>◆ Private reports</li> <li>◆ Stock quotes</li> <li>◆ News wires</li> </ul>	<ul style="list-style-type: none"> <li>◆ Targeted messages to farmers</li> </ul>	
Internet	<ul style="list-style-type: none"> <li>◆ Unsecured two-way communication today</li> </ul>	<ul style="list-style-type: none"> <li>◆ Not yet</li> </ul>
TV/radio	<ul style="list-style-type: none"> <li>◆ Broadcast messages</li> </ul>	
Periodicals	<ul style="list-style-type: none"> <li>◆ Broadcast messages</li> </ul>	
Telephone	<ul style="list-style-type: none"> <li>◆ Two-way one-off-one communication</li> </ul>	<ul style="list-style-type: none"> <li>◆ Tele-Marketing</li> </ul>
Personal	<ul style="list-style-type: none"> <li>◆ One-on-one</li> </ul>	<ul style="list-style-type: none"> <li>◆ Widely used</li> </ul>
Mail	<ul style="list-style-type: none"> <li>◆ Two-way but slow</li> </ul>	<ul style="list-style-type: none"> <li>◆ Widely used</li> </ul>
E-Markets	<ul style="list-style-type: none"> <li>◆ Secure e-mail</li> <li>◆ Secure document transfer</li> </ul>	<ul style="list-style-type: none"> <li>◆ Electronic input purchases and coordination</li> <li>◆ Electronic grain marketing and coordination</li> <li>◆ Electronic livestock marketing and coordination</li> <li>◆ Electronic bank transfers</li> </ul>



File Edit View Favorites Tools Help  
Address: A:\EBC Mkst.htm

The Business Center for [REDACTED] its Suppliers, Partners, and Customers

## Electronic Markets

Which Market?

- White Corn
- White Corn
- Quality Grade Yellow Corn
- High Oil Corn
- Quality Grade Soybeans
- High Methionine Soybeans

.....Choose which of the active electronic markets you wish to view

Electronic Market Update ☐ Perform Transaction ☐ Market History

E-MARKETS HOME PAGE

Contact E-MARKETS



*The Business Center for [redacted] its Suppliers, Partners, and Customers*

---

FYI .....Information you need for your business

Tools .....Tools to build a better understanding of your markets and business

Connect .....Link to industries, suppliers, and customers through the E-MARKETS network

Electronic Markets .....Buy and sell in the markets of tomorrow...today!

---

**E-MARKETS HOME PAGE**

**Contact E-MARKETS**

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C 3/8





The Business Center for [redacted] Its Suppliers, Partners, and Customers

## Electronic Markets

Which Market?

..... Choose which of the active electronic markets you wish to view

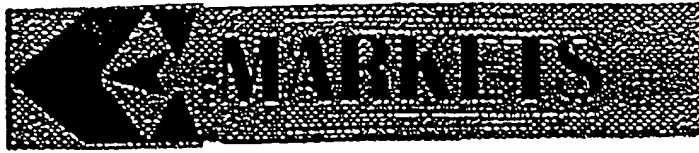
☐ Electronic Market Update ☐ Perform Transaction ☐ Market History

E-MARKETS HOME PAGE

Contact E-MARKETS



C 4/8



*The Electronic Operating System for Agribusiness and the Food Industry*

---

Members Entry .....Members enter their E-MARKETS Business Center

FYI ...Information you need for your business

Tools .....Tools to build a better understanding of your markets and business

Connect .....Link to industries, suppliers, and customers through the E-MARKETS network

Electronic Markets .....Buy and sell in the markets of tomorrow...today!

---

Who is E-MARKETS?

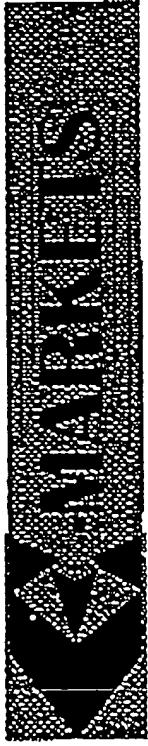
What does E-MARKETS do?

Who does E-MARKETS serve?

Contact E-MARKETS

---

C 5/8



## *The Electronic Operating System for Agribusiness and the Food Industry*

### Who is E-MARKETS?

A company with a mission of helping individuals and organizations in agribusiness and the food industry work together more effectively in delivering products to the consumer. We are committed to connecting disparate elements of the food system through the application of cutting-edge information technologies.

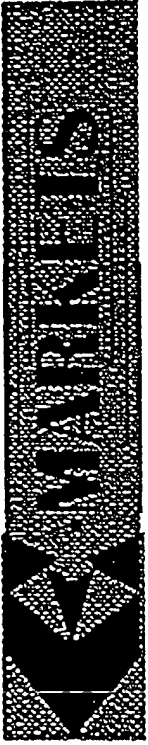
E-MARKETS is a network of information, communication, and secure electronic transactions for agribusiness and the food industry. Our innovative network technologies break down information and communication barriers that exist today in the food system, and serve as the electronic operating system for emerging systems of integrated food production and delivery. We provide an efficient and secure connection across organizations and individuals. We provide a new means for organizations to interact and do business with their suppliers, their customers, and even within their own organizations. We design and develop the products and services that allow users to maximize the value of information and capabilities available through the network.

E-MARKETS has broad-based skills and experience in agribusiness and the food industry. Our skills and abilities are focused on identifying and understanding the information and business needs of agribusiness and the food industry. We then put our information and networking technology skills to work in order to address these needs.

An important source of our skills, knowledge, and experience comes from our partners and consulting associates. Our partners include leading edge network technology companies. And our consultants provide a wide range of information and communication technology, agribusiness, and food expertise.

C 6/8





## *The Electronic Operating System for Agribusiness and the Food Industry*

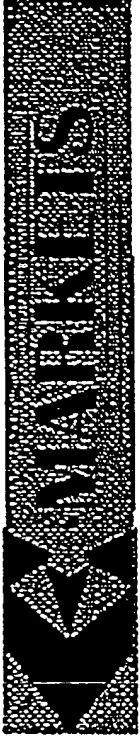
### What does E-MARKETS do?

We are transforming the food system by creating electronic market and coordination systems for agribusiness and food interests. We create innovative solutions for the ways individuals and organizations conduct business, and improve the means of 1) information flow, 2) communication, and 3) conducting transactions across industries.

Performance in the food system has been characterized by intense competition within industries, but very little coordination across industries. E-MARKETS is transforming the food system through its role as the electronic operating system of agribusiness and the food industry. E-MARKETS breaks down the barriers between the different industries and sectors of the food chain, to promote effective delivery of right food products to the consumer at the right price and right time.

We provide an advanced, centralized application server that provides an industrial strength platform for on-line electronic commerce and business services. Our network represents a complete solution by offering total versatility and flexibility in use, the ability to scale effectively for any size transaction, and complete security.

C 7/8



*The Electronic Operating System for Agribusiness and the Food Industry*

## Who does E-MARKETS serve?

We ultimately serve food consumers, and work with anyone who shares our desire to deliver the right food products, at the right time, for the right price. Our clients include a broad spectrum of ag and food interests including input suppliers, farmers, grain elevators and merchandisers, grain and food processors, food wholesalers and retailers, and ultimately consumers.

We are committed to improving information flow throughout the food system, and will continue to act as an objective conduit for its improvement. We remain steadfast in our commitments to:

- high standards of quality
- entrepreneurial activity in agribusiness and the food industry
- the absolute security and integrity of information and electronic commerce
- reliability and dependability of electronic networks
- overall excellence in delivering the food products consumers desire

7/8



# **EXHIBIT D**







Address: Kevin\WEBSHARE\WWW\ROOT\prototype\contract\FRONT.HTM

Port: 80

File Name: FRONT.HTM

Size: 10,240 bytes

Content Type: text/html

Cache-Control: no-cache

Expires: -1

Server: Microsoft-IIS/4.0

Set-Cookie: QCP=1; path=/



John Doe [Contract Management](#) [QCP Database](#) [QCP Information](#)

Updated 9:04 CST

<b>scheduling</b>	Joe Leeper, Goodgene	Please note the change of schedule for next week's grower meeting. We will now meet at 9:00 a.m.
<b>contracts</b>	Bob Guy, FCPA	It now appears that most contracted acres will come in above initial yield estimates.
<b>delivery</b>	Liz Smith, Logistics	We will begin scheduling deliveries starting January and February
<b>scheduling</b>	Joe Leeper, Goodgene	Growers should expect a call from their Goodgene representative after [REDACTED]
<b>delivery</b>	Gary Sifter, Logistics	November deliveries will all shift to the South Pit because of immediate loading needs.
<b>announce</b>	Linda Keeper, Goodgene	The annual grower appreciation dinner has been shifted to [REDACTED] at 7:00 p.m.
<b>contracts</b>	Mark Kenney, Logistics	Estimate a contract acreage for next year is 20 percent higher.



960278

960278

## Quality Corn Project

### Agreement to Grow Corn

THIS AGREEMENT is made this [redacted] between [redacted] (hereinafter "GROWER") and Logistics Grain Company, relates to the production and delivery of corn grain from certain corn hybrid seed. GROWER and LOGISTICS are experienced and knowledgeable in the business practices involved in the cultivation and sale of corn.

#### 1. GENERAL TERMS

GROWER shall produce and deliver an "Identity Preserved" crop from SEED purchased from Goodgene Seed Company. GROWER shall produce the highest quality grain possible to satisfy the specifications in Article 3. GROWER agrees to sell and deliver the total production of GRAIN to LOGISTICS or its designee. GROWER shall take all measures to prevent contaminants during growing and handling GRAIN.

- a. GROWER agrees to grow \_\_\_\_\_ acres of GRAIN.
- b. GROWER will purchase \_\_\_\_\_ units from Goodgene seed company
- c. GROWER is to request and read the specifications and the complete Limitation of Warranty and Liability associated with the specific SEED purchased for use under this Agreement.
- d. GROWER grants LOGISTICS and/or its appointed agents free and easy access to the fields to inspect, evaluate and monitor

D 4/4